2 8 2008 Under the P	<sup>3</sup> aperwork Reduction Act c	of 1995, no persor	U.S as are required to respond	. Patent and Trate to a collection of	ademark Office: I	PTO/SB/21 ( e through 1/31/2008. OMB 065 U.S. DEPARTMENT OF COMN s it displays a valid OMB control r	
TRANSMITTÀL FORM  (to be used for all correspondence after initial filing)			Application Num	ıber	10/688,068		
			Filing Date		October 17,2003  John H. Dukesherer, et al.		
			First Named Inv	entor			
			Art Unit		3737	3737	
			Examiner Name	;	John Ferr	John Fernando Ramierz	
Total Number of Pages	1	Attorney Docket	Number	5074A-00	0069/US		
		ENCLO	SURES (check all	that apply)	4	-	
Fee Transmittal F	Fee Transmittal Form		Drawing(s)		After Allowance Communication Technology Center (TC)		
Fee Attached		1_	Licensing-related Papers			Communication to Board is and Interferences	
Amendment / Reply			Petition			Communication to TC   Notice, Brief, Reply Brief)	
After Final	After Final		Petition to Convert to a Provisional Application		Proprie	tary Information	
Affidavits/decl	Affidavits/declaration(s)		Power of Attorney, Revocation Change of Correspondence Address		Status	Letter	
Extension of Time	Extension of Time Request		Terminal Disclaimer			Enclosure(s) identify below):	
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Certified Copy of Priority Document(s)		Remarks  The Commissioner is hereby authorized to charge any add fees that may be required under 37 CFR 1.16 or 1.17 to De Account No. 08-0750. A duplicate copy of this sheet is end					
Response to Miss	•		Addum	10. 00-0755.	. A uupiioate t	sopy or tries street is endic	
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	SIGNA	TURE OF /	APPLICANT, ATT	ORNEY, C	R AGENT		
Firm Name	Harness, Dickey &	Pierce, P.L.	C.				
Signature	Stepenford						
Printed name	Stephen J. Foss						
Date	2/28/08		Reg. No.	Reg. No. 31,251			
	C	ERTIFICAT	TE OF TRANSMIS	SSION/MAI	LING		
I hereby certify that the Service with sufficien	nis correspondence	is being facs	simile transmitted to	the USPTO	or deposited	with the United States F	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

2/28/08

Date



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:

10/688,068

Filing Date:

October 17, 2003

Applicants:

John H. Dukesherer, et al.

Group Art Unit:

3737

Examiner:

John Fernando Ramirez

Title:

Method and Apparatus For Surgical Navigation

**Attorney Docket:** 

5074A-000069/US

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

## **COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

Sir:

In response to the Examiner's Statement of Reasons for Allowance in the Notice of Allowance dated November 30, 2007, Applicants make the following observations.

Applicants respectfully acknowledge the Examiner allowing this application. With respect to the Examiner's Statement of Reasons for Allowance, however, Applicants respectfully submit that the elements that the Examiner asserts forms the basis for allowing this application too narrowly define the invention. In fact, Applicants respectfully submit that the elements relied upon by the Examiner, and other elements found in the claims, could be characterized more broadly, and in different combinations

and sub-combination and still present patentable subject matter. Further, Applicants' invention differs from the prior art of record by features other than the limitations cited by the Examiner.

If the Examiner would like to discuss this matter further, the Examiner is respectfully requested to contact the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: Fl. 27, 2008

By:

Richard W. Warner Reg. No. 38,043

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